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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

YELLOWCAKE, INC., California
corporation,

Plaintiff,

v.

HYPHY MUSIC, INC.,

Defendant.

Case No.: 1:20-cv-00988-AWI-BAM
[Assigned to the Hon. Jennifer L. Thurston]
**DECLARATION OF JOHN BEGAKIS
IN SUPPORT OF
DEFENDANT/COUNTERCLAIMANT'S
NOTICE OF MOTION AND MOTION
FOR SUMMARY JUDGMENT**

HYPHY MUSIC, INC.,

Counterclaimant,

v.

YELLOWCAKE, INC.; COLONIZE
MEDIA, INC; JOSE DAVID
HERNANDEZ; and JESUS
CHAVEZ SR,

Counter-Defendants.

Date: June 27, 2023
Time: 9:00 a.m.
Dept.: Courtroom 4 (7th Floor)
2500 Tulare Street
Fresno, CA 93721
Judge: Hon. Jennifer L. Thurston

DECLARATION OF JOHN BEGAKIS

DECLARATION OF JOHN BEGAKIS

I, John Begakis, declare and state as follows:

1. I am an attorney duly licensed to practice law in the State of California and before this Court. I am a founding partner at AltView Law Group, LLP and co-counsel for Defendant/Counterclaimant HYPHY MUSIC, INC., a California corporation (“*Hyphy*”) in this action. I hereby submit this declaration in support of Hyphy’s Motion for Summary Judgment, or, in the alternative, Summary Adjudication (the “*Motion*”) filed concurrently herewith. I know all of the following facts of my own personal knowledge and, if called upon and sworn as a witness, could and would competently testify thereto.

2. On or about July 16, 2020, Plaintiff YELLOWCAKE INC. (“*Yellowcake*”) filed its operative Complaint against Hyphy. On or about August 28, 2020, Hyphy filed its operative First Amended Counterclaim against Yellowcake and fellow Counter-Defendants COLONIZE MEDIA, INC. (“*Colonize*”) and JOSE DAVID HERNANDEZ (“*Hernandez*”) (collectively, “*Counter-Defendants*”).

3. To the best of my knowledge and based on a diligent search of all documents in my possession, custody and/or control, neither I, nor anyone in my office, has ever been served with, or otherwise received, any Initial Disclosures from Yellowcake or any of the other Counter-Defendants at any time since the commencement of this dispute.

4. Since the commencement of this dispute, Yellowcake has also never claimed any entitlement to any damages other than actual and punitive damages alleged in its Complaint.

5. Since the commencement of this dispute, neither I, nor anyone in my office, has ever been served with, or otherwise received, any evidence, whether via discovery or by way of the opinion of any expert witness, from Yellowcake or any of the other Counter-Defendants as to what a willing buyer would pay for albums at issue in this dispute.

1 6. On or about February 11, 2022, Yellowcake served responses to
2 Hyphy's First Set of Interrogatories, which included a verification (the "***Yellowcake***
3 ***Interrogatory Responses***"). Notably, the Yellowcake Interrogatory Responses
4 include the following:

5 **INTERROGATORY NO. 1:**

6 State all facts regarding YOUR belief that YOU are the sole owner of
7 all right, title, and interest in and to the COPYRIGHTED WORKS.

8 **RESPONSE TO INTERROGATORY NO. 1:**

9 Subject to and without waiving any General Objections,
10 Plaintiff/Counterdefendant is the sole owner of all right, title, and interest in
11 and to the COPYRIGHTED WORKS by virtue of the Asset Purchase
12 Agreement dated March 21, 2019, between Yellowcake and Jesus Chavez,
13 Sr., and the related copyright registrations.

14 A true and correct copy of the Yellowcake Interrogatory Responses are attached
15 hereto as Exhibit "E" and incorporated herein by this reference.

16 7. On or about February 11, 2022, Yellowcake served responses to
17 Hyphy's First Set of Requests for Production of Documents, which included a
18 verification (the "***Yellowcake Responses to Requests for Production***"). Notably, the
19 Yellowcake Responses to Requests for Production include the following:

20 **REQUEST NO. 1:**

21 All DOCUMENTS evidencing YOUR exclusive ownership of all right,
22 title, and interest in and to the COPYRIGHTED WORKS.

23 **RESPONSE TO REQUEST NO. 1:**

24 Plaintiff/Counterdefendant objects to this request on the grounds that
25 such documents are publicly available to the Defendant/Counterclaimant.
26 Notwithstanding Plaintiff/Counterdefendant's general and specific objections,
27 all relevant documents in Plaintiff/Counterdefendant's possession, custody
28 and control are annexed hereto and Bates stamped PLF000001-PLF000051.

1 True and correct copies of the Yellowcake Responses to Requests for Production,
 2 and the relevant documents produced therewith, are attached hereto as Exhibit “F”
 3 and incorporated herein by this reference.

4 8. On or about July 26, 2022, Counter-Defendants took the deposition of
 5 Jose Martinez as the “Person Most Knowledgeable” for Hyphy (the “**Martinez**
 6 **Depo**”). During that deposition, Mr. Martinez testified to: (a) the business of Hyphy
 7 and the albums at issue that Hyphy commissioned (13:6-14:6, 44:7-23, 44:24-9,
 8 51:22-25, 154:11-155:25); (b) Hernandez’s prior work with Hyphy (26:2-12); (c)
 9 Hyphy’s close collaboration with the Group (59:21-60:7, 61:10-16, 75:6-76:25,
 10 83:11-84:22, 84:24-85:8, 85:14-86:16); (d) Hyphy’s creation of the Album Artwork
 11 and distribution thereof along with the Albums (44:7-23; 51:18-25; 67:24-68:24,
 12 67:24-69:5, 127:12-21, 133:9-136:5); and (e) the limited value (if any) of Chavez’s
 13 contributions to the music the Group creates (111:24-112:3). True and correct copies
 14 of the portions of the Martinez Depo evidencing such testimony, located at
 15 (page:line) 13:6-14:6, 26:2-12, 44:7-23, 44:24-9, 51:18-25, 51:22-25, 59:21-60:7,
 16 61:10-16, 67:24-68:24, 67:24-69:5, 75:6-76:25, 83:11-84:22, 84:24-85:8, 85:14-
 17 86:16, 127:12-21, 133:9-136:5, 111:24-112:3 and 154:11-155:25 of the deposition
 18 transcript, are attached hereto as Exhibit “G” and incorporated herein by this
 19 reference.

20 9. On or about August 16, 2022, Hyphy took the deposition of Kevin
 21 Berger as the “Person Most Knowledgeable” for Yellowcake (the “**Berger Depo**”).
 22 During that deposition, Mr. Berger testified to the relationship between Yellowcake
 23 and Colonize. True and correct copies of the portions of the Berger Depo evidencing
 24 such testimony, located at (page:line) 91:19-23 of the deposition transcript, are
 25 attached hereto as Exhibit “H” and incorporated herein by this reference.

26 10. On or about August 17, 2022, Hyphy took the first volume of the
 27 deposition of Jose David Hernandez (“**Hernandez Depo I**”). During that deposition,
 28 Hernandez testified to (a) the relationship between Yellowcake and Colonize

(77:19-21); (b) the ownership of Yellowcake and Colonize (51:9-11, 116:18-117:14); (c) the operation of Yellowcake and Colonize as one single economic entity (80:3-20); (d) Counter-Defendants' acquisition and distribution of the albums at issue in this dispute (148:24-149:5 and 107:4-20); and (e) Counter-Defendants desire not to have "anything to do with Hyphy Music's artwork." True and correct copies of the portions of Hernandez Depo I evidencing such testimony, located at (page:line) 51:9-11, 77:19-21, 80:3-20, 107:4-20, 116:18-117:14, 148:24-149:5 and 211:24-212:6 of the deposition transcript, are attached hereto as Exhibit "I" and incorporated herein by this reference.

11. On or about December 6, 2022, Counter-Defendants took the deposition of Alfonso Vargas (the "*Vargas Depo*"). During that deposition, Vargas testified to the Group's status as a co-equal partnership in which all members were also joint owners and authors of the relevant albums based on their contributions to the creation thereof. True and correct copies of the portions of the Vargas Depo evidencing such testimony, located at (page:line) 27:17-22, 143:7-10, 143:14-16, 143:17-20, 143:25-144:3 and 144:4-7 of the deposition transcript, are attached hereto as "J" and incorporated herein by this reference.

12. On or about December 7, 2022, Counter-Defendants took the deposition of Domingo Torres Flores (the "*Flores Depo*"). During that deposition, Flores testified to the Group's status as a co-equal partnership in which all members were also joint owners and authors of the relevant albums based on their contributions to the creation thereof. True and correct copies of the portions of the Flores Depo evidencing such testimony, located at (page:line) 47:15-25, 82:13-15, 82:22-83:3, 83:4-13, 85:25-86:11 and 86:13-21 of the deposition transcript, are attached hereto as "K" and incorporated herein by this reference.

13. On or about December 14, 2022, Hyphy took the first volume of the deposition of Jesus Chavez Sr. ("*Chavez Depo I*"). During that deposition, Chavez testified to (a) his role in the Group (25:13-14); (b) the Group's status as a co-equal

partnership between all the members (18:16-19:3; 20:8-16; 21:16-19); and (c) the Group's recording of the relevant albums pursuant to their agreement with Hyphy (34:7-11). True and correct copies of the portions of Chavez Depo I evidencing such testimony, located at (page:line) 18:16-19:3, 20:8-16, 21:16-19, 25:13-14 and 34:7-11 of the deposition transcript, are attached hereto as Exhibit "L" and incorporated herein by this reference.

14. On or about January 9, 2023, Hyphy took the second volume of the deposition of Jesus Chavez Sr. ("**Chavez Depo II**"). During that deposition, Chavez testified to (a) his role in the Group (16:22-17:5); (b) the Group's recording of the relevant albums pursuant to their agreement with Hyphy (19:14-17, 32:16-20, 35:12-21); (c) the Group's status as a co-equal partnership in which all members were also joint authors of the relevant albums based on their contributions to the creation thereof (20:20-21:16, 26:13-20, 31:8-16, 33:18-34:1, 38:8-18, 41:13-42:2); and (d) Hernandez's efforts to purchase rights in the relevant albums from Chavez (77:13-17, 79:7-9, 79:17-80:2, 80:5-13, 81:7-16). True and correct copies of the portions of Chavez Depo I evidencing such testimony, located at (page:line) 16:22-17:5, 19:14-17, 20:20-21:16, 26:13-20, 31:8-16, 32:16-20, 33:18-34:1, 35:12-21, 38:8-18, 41:13-42:2, 77:13-17, 79:7-9, 79:17-80:2, 80:5-13 and 81:7-16 of the deposition transcript, are attached hereto as Exhibit "M" and incorporated herein by this reference.

15. On or about April 11, 2023, Yellowcake took the deposition of Hyphy's designated expert, Larry Katz, Esq. (the "**Katz Depo**"). During that deposition, Mr. Katz testified to (a) ISRCs and UPCs, how they are assigned, and the function they serve (46:1-47:4, 46:23-47:4, 47:5-18, 48:23-49:14 and 68:8-18); and (b) Yellowcake's improper distribution of the relevant albums with newly assigned ISRCs and UPCs (70:23-71:9, 74:1-22 and 74:23-75:17). True and correct copies of the portions of the Katz Depo evidencing such testimony, located at (page:line) 46:1-47:4; 46:23-47:4, 47:5-18, 48:23-49:14, 68:8-18, 70:23-71:9, 74:1-

1 22 and 74:23-75:17 of the deposition transcript, are attached hereto as Exhibit "N"
2 and incorporated herein by this reference.

3 I declare under penalty of perjury under the laws of the State of California
4 that the foregoing is true and correct, and that this Declaration was executed on May
5 19, 2023, at Los Angeles, California.

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JOHN BEGAKIS

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing electronically filed document has been served via a “Notice of Electronic Filing” automatically generated by the CM/ECF System and sent by e-mail to all attorneys in the case who are registered as CM/ECF users and have consented to electronic service pursuant to L.R. 5-3.3.

Dated: May 19, 2023

By: /s/ John Begakis
John M. Begakis